

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Anthony Giamoni
104 Bullman Street
Phillipsburg NJ 08865

DEFENDANTS

Richard Seeds
Fred Schoenenberger

(b) County of Residence of First Listed Plaintiff Warren County New Jersey
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Philip D. Lauer, Esquire
Lauer & Fulmer, P.C.
701 Washington Street
Easton PA 18042
610.258.5329

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C.s 1983

Brief description of cause:

Federal civil rights violations and pendent state claims

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ >150,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/22/2014

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Anthony Giunoni : CIVIL ACTION
:
v. :
Richard Seeds, et al. : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

1/22/14 *[Signature]* *Philip D. Lover, Esq.*
Date Attorney at law Attorney for Plaintiff
610.258.5329 610.258.0155 ph.d.lover-law.net
Telephone FAX Number E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 104 Bullman Street, Phillipsburg NJ 08865

Address of Defendant: 3432 Spear Street, Bethlehem PA 18020

Place of Accident, Incident or Transaction: 1114 Street, Easton, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☒ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, Philip D. Loefer, counsel of record do hereby certify:
- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☒ Relief other than monetary damages is sought.

DATE: 1/22/14

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

07935

Attorney I.D.#

I certify that, to my knowledge, the within case is ~~not~~ related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/22/14

Attorney-at-Law

07935

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY GIAMONI
104 Bullman Street
Phillipsburg NJ 08865

Plaintiff,

v.

RICHARD SEEDS,
Individually, and in his official capacity as
a Pennsylvania Constable,
3432 Spear Street
Bethlehem PA 18020

and,

FRED SCHOENENBERGER,
Individually, and in his official capacity as
a Pennsylvania Constable,
110 N. 18th Street
Easton PA 18042

Defendants.

No.

Jury Trial Demanded

COMPLAINT

NOW COMES the Plaintiff, Anthony Giamoni, by and through his attorneys, Philip D. Lauer, Esquire, LAUER & FULMER, P.C., and by way of Complaint against the Defendants named herein, does aver as follows:

I. JURISDICTION AND VENUE

1. This action is instituted under the United States Constitution, particularly under the provisions of the Fourth and Fourteenth Amendments, and under federal law, particularly the Civil Rights Act of 1871 hereinafter referred to

as the "Act", as amended, 42 U.S.C. §1983, et seq.

2. This Court has jurisdiction in this matter pursuant to 28 U.S.C. §1331, §1343 and §1367, regarding the principles of pendent and supplemental jurisdiction over related state law claims.
3. Venue in the Eastern District is properly laid pursuant to 28 U.S.C. §1391, in so far as the alleged unlawful conduct complained of in this Complaint, which forms the factual and legal basis of the Plaintiff's claims, arose within the geographical limits of this District in general and, within the geographical limits of the City of Easton, Northampton County, Pennsylvania, in particular.

II. THE PARTIES

4. Plaintiff Anthony Giamoni, (hereinafter "Anthony") is an adult individual, with a permanent residence of 104 Bullman Street, Phillipsburg, New Jersey. Plaintiff Giamoni is presently incarcerated at the SCI – Graterford, pending classification, as a result of matters unrelated to the instant action.
5. Defendant Richard Seeds (hereinafter "Seeds") is an adult individual with a permanent residence at 3432 Spear Street, Bethlehem Township, Northampton County, Pennsylvania 18020. At all times relevant hereto, Seeds was serving in his capacity as a duly elected Pennsylvania Constable and performing the duties of his office in and about Northampton and

Lehigh counties.

6. Defendant Fred Schoenenberger (hereinafter “Schoenenberger”) is an adult individual with a permanent residence at 110 N. 18th Street, Wilson Borough, Northampton County, Pennsylvania 18042. At all times relevant hereto, Schoenenberger was serving in his capacity as a duly elected Pennsylvania Constable and performing the duties of his office in and about Northampton and Lehigh counties.
7. Defendants Seeds and Schoenenberger were entrusted to protect the Constitutional and legal rights of those entrusted to their custody and control, including Anthony, and at all times relevant hereto, were acting under the authority and color of law, and acted in concert with the other individual Defendant in the performance or conduct of their actions, or acted independently.

III. FACTS (Pre-Discovery)

8. On or about January 23, 2012 officers of the Easton Police Department (“EPD”) and, Anthony Allstop, a state Parole Agent were searching for a person in violation of parole at a residence on South 11th Street in the City of Easton, Pennsylvania.
9. While lawfully attending to their duties the said officers encountered Defendant Constables Seeds and Schoenenberger. The Defendants were in

search of different individuals.

10. After knocking on the door of the residence and receiving no reply, Defendant Seeds, without lawful authority or authorization from the EPD, violently kicked in the front door of the residential building.
11. Inside the residential building EPD officers encountered Anthony. The officers determined that Anthony was wanted for a technical parole violation.
12. The officers placed Anthony under arrest.
13. Anthony was handcuffed and seated on a step. Anthony subsequently stood up while in handcuffs and asked why he was being arrested.
14. An EPD officer, believed to be Russell Demko, proceeded toward Anthony in what is believed to be an attempt to have him sit back down.
15. While attempting to perform his lawful duties, the EPD officer was ~~“commanded” to stop by Defendant Seeds. Seeds yelled “Taser! Clear!”~~
16. Defendant Seeds had no lawful authority to supervise or command the actions of EPD officers.
17. Seeds yelled at Anthony “I’m going to teach you a lesson in life.”
18. Seeds then maliciously, viciously, and outrageously aimed and fired his Taser weapon at Anthony.
19. The weapon struck Anthony sending tens of thousands of volts of electricity

though Anthony's defenseless, handcuffed body.

20. Seeds lacked any legal authority for the application of the Taser weapon, or any force whatsoever.
21. There was no legitimate or lawful reason for the application of the Taser.
22. As a result of the unlawful actions and omissions of the Defendants, Anthony was forced to seek treatment for his injuries at Easton Hospital.
23. Seeds used his Taser weapon solely to inflict pain and suffering upon Anthony, without any justification whatsoever.
24. Nationally established Taser training protocols forbid the use of a Taser weapon in the manner employed by Seeds.
25. The actions of the Defendants violate the generally accepted standards for conduct of Pennsylvania Constables as memorialized in the Code of Conduct published by the Pennsylvania State Constables Association.
26. During the entire course of events on the day in question at the residence on South 11th Street, Defendant Seeds was accompanied by Defendant Constable Schoenenberger who lent his assistance to Seeds and did not take any action to halt Seeds' unlawful conduct.
27. The EPD officers present believed that the use of the Taser by Defendant Seeds was inappropriate and not in conformance with generally accepted law enforcement standards.

28. Upon information and belief, the EPD officers present were shocked and outraged by the unlawful interference and outrageous conduct of Defendant Seeds.
29. Subsequent to the incident the Defendant Constables posted cell phone pictures and comments about their unlawful Tasing of Anthony on their social media sites and other internet sites.
30. Seeds referred to himself as a “turdologist – an expert at turd removal.” He also boasted of his unlawful activities that “the old man still got it.”
31. Defendant Schoenenberger bragged of his unlawful activities: “One turd Tased and arrested.”
32. EPD Chief Carl Scalzo reacted to the outrageous conduct of Defendant Seeds and Schoenenberger by formally conveying his concern to Northampton County Court of Common Pleas President Judge F.P. Kimberly McFadden.
33. President Judge McFadden requested that Northampton County District Attorney John Morganelli commence a criminal investigation into the matter.
34. President Judge McFadden also entered an Order directing the County’s courts and domestic relations division to not utilize either of the Defendant constables for any County business whatsoever.

35. District Attorney Morganelli conducted a criminal investigation of the two Defendants and determined that, although it was a “close call” his office would not pursue criminal charges against either Defendant.
36. D.A. Morganelli did determine that (1) the Defendants had absolutely no lawful authority to meddle in the police actions involving law enforcement officers and Anthony; and (2) the Defendants had no lawful authority to even be present in the residence in question at the time of their unlawful assault of Anthony.
37. D.A. Morganelli determined that the actions of the Defendants, described above, demonstrated “a total lack of professionalism” and a blatant disregard of the criminal justice system.
38. In response to the aforesaid events, D.A. Morganelli called upon the Pennsylvania legislature to review the constable system and take measures to assure proper oversight of constables.
39. As independently elected officials, Pennsylvania Constables are not supervised by any other governmental entity. They are free to establish whatever policies and or procedures they wish to employ in the performance of their duties. Their decisions with respect to policy and procedure are final and unreviewable.
40. After D.A. Morganelli declined criminal prosecution of the Defendants,

President Judge McFadden did not immediately vacate her Order.

-
41. Subsequently, Northampton County Court Administrator James Onembo opined that the President Judge lacked any authority in law to permanently bar the Defendants from doing any County business.
 42. Later, on May 31, 2012, President Judge McFadden entered an Order determining, *inter alia*, that “the Court is constrained to permit the reinstatement of the above named as constables to the Magisterial District Judges and the Domestic Relations Divisions.” Her Order noted that any assignments to the two Defendants would be solely at the discretion of the courts or departments involved.
 43. Defendant Seeds has a decade long history of violating the Constitutional rights of those he encounters, including three significant civil suits which resulted in settlements in this District. One which was settled for \$320, 000, Involved Seeds shooting several dogs at a residence where he was serving a traffic citation.
 44. Both Defendants have a reputation in Northampton and Lehigh counties for intemperate behavior and violations of the well established legal rights of those whom they encounter.
 45. Plaintiff believes, and thus avers, that some judicial officers refuse to utilize the services of the Defendants because of their well known reputation for

such unlawful conduct.

46. At all times during the events described above, the Defendants were engaged in a joint venture. The Defendants assisted each other in performing the various actions described, and lent their physical presence, support, and/or the authority of their office to each other during the said events.

47. As a direct and proximate result of the said acts or omissions of the Defendants, Plaintiff suffered, *inter alia*, the following injuries and damages:

- a) physical and mental pain and suffering, in both the past and the predictable future, including damages for physical pain, discomfort, ill health, and emotional injuries including stigma, humiliation, fright and emotional trauma;
- b) medical expenses;
- c) loss of life's pleasures;
- d) general damages for violation of Plaintiff's constitutional rights under the First, Fourth, and Fourteenth Amendments to the United States Constitution; and
- e) punitive damages against the Defendants in their individual capacities which are justified factually and legally because Defendants acted maliciously and/or wantonly in violating the Plaintiff's

constitutionally and statutorily protected rights, and did so intentionally, recklessly and willfully while engaging in reprehensible and outrageous conduct not to be tolerated in a civilized society.

48. The actions of the Defendants violated the clearly established and well-settled federal Constitutional rights of the Plaintiff as more clearly set forth in the Counts below. It was not reasonable for either of the Defendants to believe that their actions or omissions did not violate Plaintiff's rights.

COUNT I
Section 1983 - Constitutional Violations
Against Both Defendants

49. The preceding paragraphs are incorporated herein by reference as though fully set forth.
50. The conduct of each Defendant was willful, reckless, grossly negligent and deliberately indifferent to the bodily integrity and the physical and psychic safety of Anthony.
51. This conduct constitutes a violation of the First, Fourth and Fourteenth Amendments to the United States Constitution, more specifically Anthony's rights to be free from the use of excessive force, his freedom of bodily integrity, freedom of speech, and to petition the government.
52. As a direct and proximate result, Anthony was injured as stated more fully herein.

COUNT II

**Section 1983 - Failure to Intervene
Against Defendant Schoenenberger**

53. The preceding paragraphs are incorporated herein by reference as though fully set forth.
54. Defendant Schoenenberger is liable for failing to intervene to prevent the constitutional violations of Anthony's federally protected rights, as claimed herein, by Defendant Seeds.
55. Anthony's Constitutional rights were violated as alleged herein.
56. Under circumstances where a named Defendant was not the violator of a given right as alleged, he had the duty to intervene, including the duty to intervene to prevent the Constitutional violations more fully described herein.
57. Defendant Schoenenberger had a reasonable opportunity to intervene.
58. Defendant Schoenenberger failed to intervene.
59. As a direct and proximate result of the failure of Defendant Schoenenberger to intervene, Anthony suffered damages as more fully described herein above.

COUNT III

**Section 1983 - Civil Conspiracy
Against Both Defendants**

60. The preceding paragraphs are incorporated herein by reference as though

fully set forth.

61. Both Defendants conspired to engage in the conduct alleged herein above, whereby each Defendant acted in concert, pursuant to an agreement, to cause the stated harms or in some way facilitated the conspiratorial objective of inflicting the resulting harms upon Anthony by their own acts or omissions or by those of fellow co-conspirators.
 62. As a result of the aforesaid conspiracy engaged in by Defendants, Anthony suffered the damages as more fully described herein.
-

COUNT IV
Assault
Against Both Defendants

63. The preceding paragraphs are incorporated herein by reference as though fully set forth.
64. The actions of the Defendants, as more fully described herein, placed Anthony in reasonable and immediate fear of harmful or offensive physical contact from the Defendant.
65. The said contact was not privileged, nor was it consented to by Anthony.
66. As a direct and proximate result, Anthony was injured as stated more fully herein.

COUNT V
Battery
Against Defendant Seeds

67. The preceding paragraphs are incorporated herein by reference as though fully set forth.
68. Defendant Seeds physically contacted Anthony in an extremely harmful and offensive manner.
69. The said contact was not privileged, nor was it consented to by Anthony.
70. As a direct and proximate result, Anthony was injured as stated more fully herein.

COUNT VI
Intentional Infliction of Emotional Distress
Against Both Defendants

71. The preceding paragraphs are incorporated herein by reference as though fully set forth.
72. The aforesaid extreme and outrageous conduct, and acts of the Defendants resulted in the infliction of emotional distress, psychological trauma, and psychic pain and suffering upon Anthony and instilled in her mind an immediate and permanent sense of fear and trepidation, and said conduct, acts or omissions surpass all bounds of decency universally recognized in a civilized society.
73. As a direct and proximate result and consequence of the aforesaid conduct,

and acts of the Defendants, which constitutes intentional infliction of emotional distress, Anthony has suffered, is continuing to suffer, and will suffer into the future, the following:

- a. emotional and psychological distress and trauma;
- b. mental anguish;
- c. psychic pain and suffering;
- d. severe fright, horror, and grief;
- e. shame, humiliation, and embarrassment;
- f. severe anger, chagrin, disappointment and worry; and
- g. conduct which justifies punitive damages because of the outlandish and outrageous conduct, actions and omissions of one or more of the Defendants.

COUNT VII
Civil Conspiracy
Against Both Defendants

- 74. The preceding paragraphs are incorporated herein by reference as though fully set forth.
- 75. Both Defendants conspired to engage in the tortuous state claims alleged hereinbefore whereby each Defendant acted in concert, pursuant to an agreement, to cause the stated harms or in some way facilitated the conspiratorial objective of inflicting the resulting harms upon Anthony by

their own acts or omissions or by those of fellow Defendant.

76. As a result of the aforesaid conspiracy engaged in by the Defendants, Anthony suffered the damages as aforesaid.

OTHER

77. Plaintiff respectfully requests a jury of eight (8) jurors to deliberate upon the within cause of action.
78. Where permitted by law, the Plaintiff demands reasonable attorney's fees, costs, interest, expenses, delay damages, compensatory damages, punitive damages and any other damages deemed appropriate by the Court.
79. Plaintiff requests that this Honorable Court issue declaratory and injunctive relief, as appropriate, declaring the within described practices to be unlawful, and enjoining their present and continued effects.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court, for each Count alleged:

- a. Award compensatory damages to Plaintiff against the Defendants, jointly and severally, in an amount in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) exclusive of interest and costs;

- b. Award punitive damages to Plaintiff against the Defendants in their individual capacities, jointly and severally;
- c. Award delay damages;
- d. Award reasonable attorney's fees and costs to the Plaintiff; and
- e. Award such other and further relief as this Court may deem appropriate.

Respectfully submitted,
LAUER & FULMER, P.C.

Date: January 22, 2014

By: 

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Easton PA 18042
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